

REMARKS

Claims 1, 2, and 10-11 have been amended. Claims 1-11 remain pending. Reconsideration and withdrawal of all outstanding rejections are respectfully requested in light of the foregoing amendments and the following remarks.

Claims 1-11 stand rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. Applicants traverse the rejection. Applicants believe that the original claims in the application were written such that one skilled in the art would reasonably conclude that the inventor had possession of the claimed invention at the time of filing. See M.P.E.P. 2163 (I)(A) (stating "There is a strong presumption that an adequate written description of the claimed invention is present when the application is filed."). While the Office Action focused primarily on two figures in the invention, the claims themselves as originally filed should also be considered as a part of the original application. See 35 U.S.C. 112, second paragraph (stating that the specification shall "conclude with one or more claims.").

Claims 1-11 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,969,273 to Archie ("Archie"). The rejection is traversed.

The present invention relates to methods and apparatus for determining the concavity and convexity of line and space patterns formed on a sample. Archie, on the other hand, relates to determining the critical dimensions of a featured formed on a substrate using, for example, the edge width of the feature. Archie provides no teaching or suggestion relating to distinguishing between a line portion and a non-line portion in a situation where a plurality of lines are arranged, namely, Archie provides no teaching regarding determining concavities and/or convexities in


a situation where concave and convex portions are repeated, as in the present invention.

In other words, Archie provides no teaching or suggestion to apply the concept of "comparing a convergence of foot portion[s]" between peaks to each of a plurality of peaks of a detected profile waveform. For at least these reasons, Archie does not anticipate or render obvious the claimed invention.

In view of the above amendment, applicant believes the pending application is in condition for allowance. Favorable action on the application, including claims 1-11 is solicited.

Dated: December 2, 2005

Respectfully submitted,

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